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6325-39

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 531

RIN: 3206-AM51

General Schedule Locality Pay Areas

AGENCY: U.S. Office of Personnel Management.

ACTION: Proposed rule with request for comments.

SUMMARY: On behalf of the President's Pay Agent, the Office of Personnel Management is issuing proposed regulations to tie the metropolitan area portion of locality pay area boundaries to the geographic scope of Metropolitan Statistical Area and Combined Statistical Area definitions that are contained in the attachments to Office of Management and Budget Bulletin 10-02 of December 1, 2009.

DATES: We must receive comments on or before [INSERT DATE 45 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments, identified by "RIN 3206-AM51," by any of the following methods:

Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

E-mail: pay-leave-policy@opm.gov. Include "RIN 3206-AM51" in the subject line of the message.

Fax: (202) 606-4264.

Mail, Hand Deliver/Courier comments: Jerome D. Mikowicz, Deputy Associate
Director for Pay and Leave, Office of Personnel Management, Room 7H31, 1900 E Street, NW.,
Washington, DC 20415-8200.

FOR FURTHER INFORMATION CONTACT: Allan Hearne, (202) 606-2838;

FAX: (202) 606-4264; e-mail: pay-leave-policy@opm.gov.

SUPPLEMENTARY INFORMATION: Section 5304 of title 5, United States Code, authorizes locality pay for General Schedule (GS) employees with duty stations in the United States and its territories and possessions.

Section 5304(f) of title 5, United States Code, authorizes the President's Pay Agent (the Secretary of Labor, the Director of the Office of Management and Budget (OMB), and the Director of the Office of Personnel Management (OPM)) to determine locality pay areas. The boundaries of locality pay areas must be based on appropriate factors, which may include local labor market patterns, commuting patterns, and the practices of other employers. The Pay Agent must give thorough consideration to the views and recommendations of the Federal Salary Council, a body composed of experts in the fields of labor relations and pay policy and representatives of Federal employee organizations. The President appoints the members of the Council, which submits annual recommendations to the Pay Agent about the locality pay program. The establishment or modification of pay area boundaries must conform with the notice and comment provisions of the Administrative Procedure Act (5 U.S.C. 553).

Based on recommendations of the Federal Salary Council, we have used Core Based Statistical Areas (CBSA) designated by the Office of Management and Budget (OMB) as the basis for locality pay areas since locality pay began in 1994. Under current regulations, locality

pay areas change automatically the January following any changes in applicable CBSA definitions made by OMB.

OMB typically makes substantial changes in the definitions of CBSAs after each census. When OMB redefined CBSAs in 2003, we temporarily delinked locality pay area boundaries from the revised definitions to allow the Federal Salary Council and the Pay Agent time to review the new definitions to determine if the new definitions were suitable for use in the locality pay program. Based on the Council's recommendations in 2003, the Pay Agent later approved using the new CBSA—Metropolitan Statistical Areas (MSA) and Combined Statistical Area (CSA)—definitions for defining locality pay areas.

OMB plans to once again update CBSA definitions in 2013, and the Federal Salary Council has recommended that we again temporarily delink locality pay area definitions from the new MSA and CSA definitions to provide time for review. Therefore, the Pay Agent is proposing amending 5 CFR part 531 to link locality pay areas to existing MSAs and CSAs as defined in OMB Bulletin 10-02 of December 1, 2009. Under the proposed rule, pay areas would not change to conform to new CBSA definitions unless the Pay Agent decides later to adopt the new definitions. The Pay Agent will make its determination after receiving and considering the recommendations of the Federal Salary Council.

The Pay Agent will publish for comment any proposed changes in locality pay areas based on the new definitions, if they are adopted. Under this proposed rule, locality pay areas will not change automatically when OMB changes metropolitan area definitions in 2013.

Impact and Implementation

The proposed rule will have no effect on existing locality pay area definitions but will prevent any changes that would otherwise occur when OMB updates MSA and CSA definitions

in 2013.

Executive Order 13563 and Executive Order 12866

The Office of Management and Budget has reviewed this rule in accordance with E.O. 13563 and E.O. 12866.

Regulatory Flexibility Act

I certify that these regulations would not have a significant economic impact on a substantial number of small entities because they would apply only to Federal agencies and employees.

List of Subjects in 5 CFR Part 531

Government employees, Law enforcement officers, Wages.

Office of Personnel Management

John Berry
Director

Accordingly, OPM is proposing to amend 5 CFR part 531 as follows:

PART 531—PAY UNDER THE GENERAL SCHEDULE

1. The authority citation for part 531 continues to read as follows:

Authority: 5 U.S.C. 5115, 5307, and 5338; sec. 4 of Pub. L. 103-89, 107 Stat. 981; and E.O. 12748, 56 FR 4521, 3 CFR, 1991 Comp., p. 316; Subpart B also issued under 5 U.S.C. 5303(g), 5305, 5333, 5334(a) and (b), and 7701(b)(2); Subpart D also issued under 5 U.S.C. 5335 and 7701(b)(2); Subpart E also issued under 5 U.S.C. 5336; Subpart F also issued under 5 U.S.C. 5304, 5305, and 5941(a), E.O. 12883, 58 FR 63281, 3 CFR, 1993 Comp., p. 682 and E.O. 13106, 63 FR 68151, 3 CFR, 1998 Comp., p. 224.

Subpart F—Locality-Based Comparability Payments

2. In § 531.602, the definitions of CSA and MSA are revised to read as follows :

§ 531.602 Definitions.

* * * * *

CSA means the geographic scope of a Combined Statistical Area as defined by the Office of Management and Budget (OMB) in OMB Bulletin 10-02, December 1, 2009.

* * * * *

MSA means the geographic scope of a Metropolitan Statistical Area as defined by OMB in OMB Bulletin 10-02, December 1, 2009.

* * * * *

3. In § 531.609, paragraph (d) is revised to read as follows:

§ 531.609 Adjusting or terminating locality rates.

* * * * *

(d) In the event of a change in the geographic coverage of a locality pay area, the effective date of any change in an employee's entitlement to a locality rate of pay under this subpart is the first day of the first pay period beginning on or after the effective date indicated in the applicable final rule published in the *Federal Register*.

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